

LEGAL**REQUIREMENTS**

Federal policy requires the IV-D agency to accept voluntary payments.

The distribution requirements are contained in OCSE-AT-97-17, instructions for the distribution of child support under section 457 of the Social Security Act.

The Friend of the Court (FOC) is restricted to accepting cash or cash equivalent payment only (MCL 552.509).

DEFINITIONS

Cash Payment: A payment made in currency, by money order, or by cashier's check.

Voluntary Payment: A payment made in the absence of a court order.

Voluntary Payment Distribution: Distribution requirements mandate that voluntary payments be treated as if a support obligation exists for the month received and is equal to the payment.

Commencement of Action: A domestic relations case is commenced by filing a complaint with the circuit court clerk.

**VOLUNTARY
PAYMENT POLICY**

Friend of the Court (FOC) offices must receipt cash voluntary payments in IV-D cases without requiring a support order to first be entered. The Friend of the Court is in the best situation to know if an order is being prepared and can conduct the necessary research and accept money. The FOC will gather the necessary information for disbursement using the Voluntary Payment Application (see exhibit Item, "Voluntary Payment Application"). The required "Voluntary Payment Application" constitutes a specific request by a payer for action to receipt and disburse a payment.

The payer must also apply for IV-D services, if there is no existing IV-D case.

**VOLUNTARY
PAYMENT
PROCEDURE**

The minimum elements required are:

- No support order exists for the payer, payee and children;
- The payer completes a Voluntary Payment Application;
- A IV-D Case exists for the payer, payee and children;
- The payer makes a cash payment.

Note: The FOC should:

- Advise the volunteer payer the payment could be considered a "gift" and not credited as support against a future court order;

- Provide the volunteer payer with information on securing a support order.

**Checklist of
Minimum Elements**

Use the following procedures to determine if the minimum elements for accepting a voluntary payment exist.

1. **Does an order already exist?** Has this noncustodial parent (NCP) been ordered to pay for this child(ren)? Has this voluntary payer been excluded by court parentage ruling? Has an otherwise identified NCP been ordered to pay for this child(ren)?
 - If there is an already existing order, receipt as regular payments on the case, direct the payer to the appropriate court, or provide the mailing address of the Michigan State Disbursement Unit (MiSDU).
 - If there is **no** existing order, but a complaint is filed with the circuit court clerk, encourage the payer to get a support order. Advise the payer that a payment could be considered a gift and the payer may receive no credit (*Pellar v. Pellar*, 178 Mich App 29[1989]). The payer may indicate the court has ruled and the payer was told to pay. Payers probably are not aware the court speaks through its written orders. Express a willingness to take the payment but encourage the payer to discuss payment with his legal representative before paying.
2. **Is the Voluntary Payment Application completed?** Review the application to be sure:
 - The necessary data is complete;
 - The amount tendered agrees with the amount the payer lists;
 - The Application is signed and initialed.
3. **Is there a IV-D case?** Conduct a search to determine if there is an existing IV-D case and record the IV-D number on the Application.
 - If no IV-D case is found, the volunteer payer (NCP) must complete a request for IV-D services (FIA-1201, "Non-FIP Child Support Services Application"; see exhibit, Combined IV-D Manual Item 110, pg. 7). The Friend of the Court shall contact a Support Specialist to open the IV-D case. (A system enhancement is anticipated that will allow Friends of the Court to open IV-D cases. When the enhancement is complete, the Friend of the Court worker will open the IV-D case).
 - If the volunteer payer indicates the child lives outside of Michigan, the payment should be put in suspense while the Federal Case Registry (FCR) check is done to try and find a IV-D case number. Always obtain a signed IV-D application for ser-

vices as indicated above and open a IV-D case if no out-of-state IV-D case is found.

4. **Is the payment a cash payment?** The Friend of the Court may only accept cash, cashier's check or money orders.

Checklist of Minimum Elements for Mailed Payment

If a voluntary payment is received by mail, the previous procedure is to be followed.

Return the voluntary payment to the payer when:

- There is no IV-D case;
- There is no Voluntary Payment Application on file;
- There is already a support order in effect.

If no IV-D case exists, with the returned payment include a IV-D Application and a Voluntary Payment Application.

Check to the Payee

The custodial parent (CP) will receive this check without prior notice. This is a payment made without the notice a child support order provides. A copy of the Voluntary Payment Application should be included with the check.

Protecting Payer Information

The Voluntary Payment Application instructs the payer to both:

- Write on the Voluntary Payment Application form any confidentiality concerns or fears of domestic violence the payer may have; and
- Verbally advise the FOC worker of any confidentiality or domestic violence concerns.

The application must be reviewed for such notations. An edited version or substitute for the Voluntary Payment Application must be sent when appropriate.

RECEIPTING OF VOLUNTARY PAYMENTS

No Court Case Filed

If there is no court case filed, a substitute for the case number must be created for receipting and statistical tracking. Each payer/payee combination should be given a **unique** substitute case number. There are three parts to the court case number:

1. Year - using the year the payment is offered (current year);
2. Six-digit number - selecting a six-digit number from the range 999001 to 999950;

3. Suffix - using a "ZZ" suffix.

Example: 2001-999001-ZZ

Note: Use the same number for subsequent voluntary payments between the same individuals.

**Court Case Filed -
No Order**

If there is a court case filed, receipting and tracking will be done under the court order number assigned. If there is more than one case involving the same payer/payee and dependents (i.e., both filed for divorce) use the oldest number.

Receipt Type

Payments should be receipted as Voluntary Support Payment (L) in the CSES system.

Future Systems

Significant changes are anticipated in voluntary receipting processes in the CSES replacement system.

LEGAL BASE

OCSE AT 97-17

<http://www.acf.dhhs.gov/programs/cse/pol/at-9717.htm>

MCL 552.519(3)

MCL 552.503(6)

Friend of the Court Act

<http://michiganlegislature.org/law/GetObject.asp?objName=Act-294-of-1982&queryid=1628372>